

# SHE ACCUSES DR. WHITEHEAD.

## Agnes Berthold Says He Performed Three Criminal Operations Upon Her.

### FAINTED WHILE TESTIFYING

Lawyer Howe Says He Will Call Dr. Parkhurst and Recorder Goff.

MAY SUMMON CHIEF BYRNES.

Startling Developments Promised in the Trial of the Accused Physician.

If the statements of Lawyer William F. Howe are verified, there are likely to be some sensational developments in the case of Dr. E. Newton Whitehead, whose trial on the charge of having performed a criminal operation upon Agnes Berthold in December, 1929, is now under way before Judge Allison in Part II. of General Sessions.

Mr. Howe has announced that it is his intention to call among the witnesses for the defense Recorder Goff, Lawyer Frank Moss and even Dr. Parkhurst himself, and subject them to a searching examination into the methods employed by the Lexow Committee, before which Dr. Whitehead testified.

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The argument went right on, and when Judge Allison finally overruled Mr. Brooker's objections and allowed the testimony to be given, Miss Berthold made a very little confession in the statements.

Mr. Davis moved to have Dr. Whitehead committed to the Tombs, pending

Mr. Howe denounced the motion as an abuse and said his client had to face the antagonism of the entire police department and that efforts were being made to hamper and distress him continually.

He said it was not the custom to commit defendants when the bail was good, and when there were no good reasons to suspect the defendant proposed leaving the State.

Judge Allison seemed somewhat puzzled, but after a few minutes' deliberation he refused to take the stand again.

There were eight jurors in the box when court opened to-day. The other four were soon selected. Following is the complete list:

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There was an outbreak at the very start when Mr. Martin informed the jury that they were about to try a man who "enjoyed the reputation of being one of the most notorious abortionists in town."

"What's that?" shouted Mr. Howe, jumping to his feet. "This is an outrage, and I ask the protection of Your Honor for my client."

"Well, we can prove it," retorted Mr. Martin.

"No you can't. The law won't allow you to do it. I demand the retraction of that statement," said Mr. Howe.

After some discussion Judge Allison ordered the words to be stricken from the record and told the jury to disregard the statement.

Mr. Martin went on to give the history of the indictment against Whitehead.

He told how Agnes Berthold, upon whom the defendant is alleged to have performed a criminal operation, came to this country from a small town in Saxony, Germany, in May, 1873, and came to this country five years ago.

She had no relatives here and worked for a Mrs. Berglund at 97 Seventh street, where she met Richard Kusch.

She met a Mrs. Kusch, a German, and a Mrs. Werner. Kusch met her frequently during this time, which was early in 1929.

The witness gave her answers in a low tone that Judge Allison was unable to hear, and she repeatedly spoke to Kusch about it. He brought her some frank which he told her to take.

Lawyer Frank Moss came in during the examination, but was informed that being a witness he must retire. After a hurried conversation with Mr. Howe he withdrew.

Continuing her testimony, Miss Berthold said she took the medicine, and that on two other occasions Kusch gave pills to her with instructions how to take them. Finally Kusch took her to the house of Mrs. Moebius, at 32 East Fifty-fifth street, for treatment. This was Nov. 25, 1929.

Mrs. Moebius made an examination, the witness said, and gave her some medicine, but nothing that she took had produced the desired effect. She remained at the house of Mrs. Moebius that night. The witness remembered growing nervous, and she burst into tears several times as she was giving testimony.

On Dec. 4 Mrs. Moebius took the witness to see Dr. Whitehead at his house, 214 East Forty-second street.

"Mrs. Moebius spoke to Dr. Whitehead in English, which I did not understand," she said. "The girl, Miss Berthold, went out of the room and locked the door. I was sitting on the lounge and began to cry."

"Dr. Whitehead said to me, 'You go to bed,' and then pushed me over on the lounge. I don't know what became of me then. I lost my senses. When I came to I was in great pain."

The witness did not know whether any instruments had been used or not. She said she was in great pain. This time the doctor used several instruments in performing an operation, which the witness described.

On Dec. 11 the witness swore a third operation was performed upon her by Dr. Whitehead.

Both Mr. Brooker and Mr. Howe made a long argument as to the admissibility of evidence as to the third operation, which Miss Berthold said Dr. Whitehead performed.

While Mr. Brooker was talking Miss Berthold wept, and her head dropped to one side and she fainted.

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There is even talk that Chief Byrne may be indicted on the charge of defense, and that the testimony which he will give will relate the doing of the investigation of crime, of which he has been in the lead, making a special and secret investigation during the past few months.

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